

Appl. No. 10/606,397
Amdt. dated October 28, 2005
Reply to Office action of July 1, 2005

REMARKS/ARGUMENTS

Reconsideration of the application, as amended, is respectfully requested.

The specification has been amended to improve the form thereof without the addition of any new matter.

Applicant has cancelled claims 1, 9, 10, 14, 27-30 and 40 and has amended the remaining claims, without the addition of any new matter, to more particularly distinguish Applicant's claims over the prior art.

Applicant's claims 2, 6 and 8 each recites a trim tool for trimming an opening casing which includes at least two casing panels, each having front and rear edges and inner and outer faces spanning the front and rear side edges, coupled together at a 90° angle to form a casing joint.

Claim 11 similarly recites a trim tool for clamping two coplanar trim pieces, each having inner and outer edges, in right angular relation with margins thereof in abutment to form a first joint in juxtaposition with a second joint formed by abutting end portions of two right angularly related planar frame members having inner and outer planar faces.

Claims 21, 31 and 40 each includes similar recitations. It is respectfully submitted that none of the patents relied on in the office action, namely: Kleinbongartz, Patent No. 6,123,326; Zborschil, Patent No. 5,427,364; Hewson, Patent No. 4,253,649; and Carter, Patent No. 1,587,820, disclose or remotely suggest a trim tool for trimming an opening casing such as a door or a window. The claim preamble is a significant limitation which defines a particular article and property of that article and gave life and

meaning to the claim. See In Re: George F. Myers, 161 USPQ 668 (1969). Any such suggestion is a hindsight proposal made only in view of Applicant's own construction since Applicant is the only who discloses and claims a trim tool. This new and novel tool frees the carpenter's hands thereby allowing uninhibited, rapid nailing of the trim panel to the window casing. Applicant thus discloses and claims new and novel structure cooperating in a new and novel manner to produce a new and novel result. It is respectfully submitted that this is excellent evidence of patentability.

Claim 2 goes on to recite that the corner clamp assembly includes a pair of right angularly related mounting bars rigidly fixed together and lying in a first plane.

Claims 6 and 8 similarly recite a unitized mount comprising a pair of right angularly disposed mounting perches lying in a first predetermined plane.

Claim 11, 31, 41 and 42 similarly recites a rigid mounting support lying in a first plane.

Claim 21 similarly recites that the mounting support includes a pair of right angularly disposed supports lying in a fourth plane.

The Kleinbongartz Patent '326, Zborschil Patent '364 and Carter Patent '820, disclose conventional prior art clamps.

The Hewson Patent '649 discloses a pair of mounting arms 41 which are not fixed, are not rigid, and do not lie in the same plane but rather are rotatably coupled. Accordingly, it is clear that this patent does not anticipate any of Applicant's claimed construction. To suggest that the arms 41 of Hewson could be rigid, fixed, stationary and/or unitized would be contrary to the very purpose for which the articulately coupled construction of Hewson is provided. In fact, the entire Hewson patent is directed to

joints 21, 22, 23 and 24 which are provided facilitate relative swinging movement of the various parts including arms 41. To suggest that the arms 41 would be rigidly coupled would destroy the Hewson patent for the very purpose for which the Hewson construction is provided. Where a proposed modification of a device would destroy the device for its intended purpose, such a modification is neither obvious or proper. See ExParte Westphalen, 159 USPQ 507 (1967).

Claim 2 goes on to recite that the trim clamps are mounted in perpendicular relation to each of the mounting bars and that the trim clamps are disposed perpendicular to each other and generally parallel to the plane of the angularly related mounting bars. Claims 6 and 8 include similar recitations. It is respectfully submitted that this structure is not shown or remotely suggested in any of the art of record.

Claims 6, 8 and 11 each additionally recite means for adjustably mounting said clamp faces of each clamp member for movement toward and away from each other in a predetermined path of travel parallel to said first plane.

Claim 21 similarly recites that the right angularly disposed support bars lie in a fourth plane and the inner clamp arm and outer clamp arm mounted for movement in a fifth plane parallel to said fourth plane.

Claim 41 similarly recites means for relatively moving said inner and outer faces in said paths parallel to said third plane. None of the patents disclosed or remotely suggest this construction.

Claims 7, 12 and 26 each further recites that the inner clamp face is partially offset in a direction toward said supports. Claim 31 similarly recites inner face being partially rearwardly offset relative to said outer posing clamp face. Claims 41 and 42

each similarly recite "said inner face being offset, in a direction toward said rigid mounting support, relative to said outer clamp face".

In the Kleinbongartz Patent '326, the faces 4 and 8 are aligned. In the Zborschil Patent '364, the faces 21 and 22 are aligned. In the Hewson Patent '649, the clamp faces are aligned. In the Carter Patent '820, the faces 10 and 17 are aligned, as usual. Applicant discloses and claims the offset faces which facilitate and enable the trim clamp to react between the trim and the offset face of the window casing for forcing the joints of the trim frame into abutting relation overlying the window casing joint and concurrently supporting the device on the window. This concept is not taught or remotely suggested in any of the art of record. It is respectfully submitted that it would not be obvious to modify any of the patents to recite the structure since Applicant is the only patent which appreciated and solved the problem. It is respectfully submitted that the prior art cannot be tenably modified to solve a problem which it did not appreciate.

It is further respectfully submitted that it would be mere happenstance if any structure made according to the patents cited would meet the aforementioned claim recitations.

Claim 11 still further recites that each clamp member includes means for moving said outer clamp face into clamping engagement with the outer edge of one of the trim pieces, and means for moving said inner clamp face into clamping engagement with the inner clamp face of one of the planar frame member.

Claim 21 likewise recites clamp apparatus...including an inner clamp on...and an outer clamp on...and having an outer clamp face for clamping against the outer edge of one of said trim members and an inner clamp face...for clamping against the inner

frame face of one of said frame members. Claims 31, 33, 41 and 42 including similar recitations. By clamping the trim tool in this fashion, the trim tool is self-supporting and need not be hand held or held by another co-worker. The elimination of a co-worker to hold the frame while it is being fastened represents a substantial savings to the carpentry industry.

With Applicant's offset construction, the inner clamp face 64 is partially rearwardly offset relative to the outer clamp face 56 so that the inner clamp face 64 will be at least partially disposed rearwardly of the sheeting face 18A and an intimate clamping engagement with the inner face 26A of the window casing. The trim clamp thus reacts between the outer trim edge 33B and the inner window casing face 26A to free the hands of the carpenter.

Applicant thus discloses and claims new and novel structure cooperating in a new and novel manner to produce a new and novel result not taught or remotely suggested in any of the art of record. It is respectfully submitted that this is excellent evidence of patentability.

It is respectfully submitted that all of the claims now remaining in the application are in obvious condition for allowance and an early Notice of Allowance is earnestly solicited.

If, for some reason, this amendment does not place this application in condition for allowance, the examiner is respectfully requested to call Applicant's attorney to set up an interview.

Applicant hereby requests a one month extension of time to respond to the office action dated July 1, 2005. Please charge our deposit account no. 502553 to cover the \$120 fee for extension for response within first month and \$400 to cover the additional claim fee. If there are any additional fees or credits, please apply to our deposit account.

Respectfully Submitted,

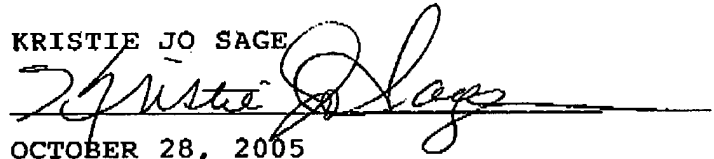
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I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office on the date shown below.

KRISTIE JO SAGE


OCTOBER 28, 2005